

FCC MAIL SECTION  
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Before the  
FEDERAL COMMUNICATIONS COMMISSION DA 96-594  
Washington, D.C. 20554

In the Matter of ) MM Docket No. 96-97  
)  
KGCX, Inc. )  
)  
Order to Show Cause Why the )  
License for Station KGCX(AM) )  
Sidney, Montana Should Not )  
be Revoked )  
)  
Sidney Broadcasters, Inc )  
)  
Order to Show Cause Why the )  
License for Station KGCH-FM )  
Sidney, Montana Should Not )  
be Revoked )

ORDER TO SHOW CAUSE  
AND  
HEARING DESIGNATION ORDER

Adopted: April 15, 1996

Released: April 17, 1996

By the Assistant Chief, Audio Services Division

1. The Assistant Chief, Audio Services Division, Mass Media Bureau, has before him for consideration: (a) licenses held by KGCX, Inc. ("KGCX") and Sidney Broadcasters, Inc. ("Sidney") for Stations KGCX(AM) and KGCH-FM, Sidney, Montana, and (b) the results of an investigation into KGCX(AM)'s and KGCH-FM's silent status.<sup>1</sup>

2. The Commission's records indicate that KGCX(AM) and KGCH-FM, which are commonly owned, have been off the air since August 3, 1993, due to financial difficulties.<sup>2</sup>

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<sup>1</sup> The Mass Media Bureau has been delegated authority to issue and release Show Cause Orders in cases involving silent broadcast stations. See Debrine Communications, Inc., 7 FCC Rcd 2118 (1992).

<sup>2</sup> The licenses of KGCX(AM) and KGCH-FM expire on April 1, 1997 (File Nos. BR-891130C6, granted March 6, 1991, and BRH-891130UC, granted March 26, 1990).

On September 11, 1995, the Commission granted special temporary authority for the stations to remain silent through March 11, 1996, upon their representation that they were seeking to assign the licenses to a new party. An extension of this authority was requested by letter of March 12, 1996. However, the request failed to set forth any specific facts which would indicate that they had taken meaningful steps to assign the licenses of the stations or had taken any other action that could result in the expeditious resumption of station operations. Thus, KGCX(AM) and KGCH-FM have apparently been off-air for over two years, and have not demonstrated that causes beyond their control warrant the stations' continued silence since the expiration of their special temporary authority. Consequently, KGCX and Sidney are in apparent violation of Sections 73.1740(a)(4)<sup>3</sup> and 73.1750<sup>4</sup> of the Commission's Rules.

3. Accordingly, IT IS ORDERED, That pursuant to Section 312(a)(3) and (4) of the Communications Act of 1934, as amended, KGCX, Inc. and Sidney Broadcasters, Inc. ARE DIRECTED TO SHOW CAUSE why the licenses for Stations KGCX(AM) and KGCH-FM should not be REVOKED, at a hearing to be held at a time and location specified in a subsequent Order, upon the following issues:

(a) To determine whether KGCX, Inc. and Sidney Broadcasters, Inc. have the capability and intent to expeditiously resume the broadcast operations of KGCX(AM) and KGCH-FM consistent with the

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<sup>3</sup> Section 73.1740(a)(4) provides:

"In the event that causes beyond the control of a licensee make it impossible to adhere to the operating schedule of this section or to continue operating, the station may limit or discontinue operation for a period of not more than 30 days without further authority from the FCC. Notification must be sent to the FCC in Washington, D.C. not later than the 10th day of limited or discontinued operation. During such period, the licensee shall continue to adhere to the requirements in the station license pertaining to the lighting of antenna structures. In the event normal operation is restored prior to the expiration of the 30 day period, the licensee will so notify the FCC of this date. If the causes beyond the control the licensee make it impossible to comply with the allowed period, an informal written request shall be made to the FCC no later than the 30th day for such additional time as may be deemed necessary "

<sup>4</sup> Section 73.1750 provides:

"The licensee of each station shall notify the FCC in Washington, D.C. of permanent discontinuance of operation at least two days before operation is discontinued. Immediately after discontinuance of operation, the licensee shall forward the station license and other instruments of authorization to the FCC, Washington, D.C. for cancellation "

Commission's Rules.

(b) To determine whether KG CX, Inc. and Sidney Broadcasters, Inc. have violated Sections 73.1740 and/or 73.1750 of the Commission's Rules.

(c) To determine, in light of the evidence adduced pursuant to the foregoing issues, whether KG CX, Inc. and Sidney Broadcasters, Inc. are qualified to be and remain the licensees of Stations KG CX(AM) and KG CH-FM

4. IT IS FURTHER ORDERED, That, pursuant to Section 312(d) of the Communications Act of 1934, as amended, both the BURDEN OF PROCEEDING with the introduction of evidence and the BURDEN OF PROOF with respect to the issues specified above shall be upon the MASS MEDIA BUREAU

5. IT IS FURTHER ORDERED, That to avail itself of the opportunity to be heard, the licensee, pursuant to Section 1.91(c) of the Commission's Rules, SHALL FILE with the Commission within thirty (30) days of the receipt of this Order a WRITTEN APPEARANCE stating that he will appear at the hearing and present evidence on the matters specified in the Order. If the licensee fails to file a written appearance within the time specified, or within thirty (30) days of receipt of this Order the licensee files a written statement expressly waiving its right to a hearing, the licensee's right to a hearing SHALL BE DEEMED TO BE WAIVED. In the event the right to a hearing is waived, the Presiding Judge, or the Chief Administrative Law Judge if no Presiding Judge has been designated, SHALL TERMINATE the hearing proceeding and CERTIFY this case to the Commission in the regular course of business, and an appropriate Order shall be entered <sup>5</sup>

FEDERAL COMMUNICATIONS COMMISSION

Stuart B. Bedell  
Assistant Chief, Audio Services Division  
Mass Media Bureau

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<sup>5</sup> The Mass Media Bureau has been delegated authority to issue Revocation Orders in cases involving silent broadcast stations. See Radio Northwest Broadcasting Company, 4 FCC Rcd 596, n.3 (1989)